

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
RIDGEFIELD UPHOLSTERY)
Appellant,)
v.)
SOUTHWEST AIR)
POLLUTION CONTROL)
AUTHORITY,)
Respondent.)

PCHB No. 79-135

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

THIS MATTER, the appeal of a \$50 civil penalty for an open fire in violation of Section 4.01 of Regulation I having come on regularly for formal hearing on the 30th day of November, 1979 in Vancouver, Washington, and appellant, Ridgefield Upholstery, appearing through its attorney, John R. Fox and respondent, Southwest Air Pollution Control Authority, appearing through its attorney, James D. Ladley with Nancy E. Curington, hearing examiner presiding, and the Board having considered the exhibits, records and files herein, and having

1 reviewed the Proposed Order of the presiding officer mailed to the
2 parties on the 14th day of December, 1979, and more than twenty days
3 having elapsed from said service; and

4 The Board having received no exceptions to said Proposed Order and
5 the Board being fully advised in the premises; NOW THEREFORE,

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said Proposed
7 Order containing Findings of Fact, Conclusions of Law and Order dated
8 the 14th day of December, 1979, and incorporated by reference herein
9 and attached hereto as Exhibit A, are adopted and hereby entered as
10 the Board's Final Findings of Fact, Conclusions of Law and Order
11 herein.

12 DATED this 30th day of January, 1980.

13 POLLUTION CONTROL HEARINGS BOARD

14
15 Nat W. Washington
16 NAT W. WASHINGTON, Chairman

17 Chris Smith
18 CHRIS SMITH, Member

19 David Akana
20 DAVID AKANA, Member

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Southwest Air Pollution Control Authority
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Vancouver, WA 98665

Trish Ryan
TRISH RYAN
Docket Clerk

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
RIDGEFIELD UPHOLSTERY)
Appellant,)
v.)
SOUTHWEST AIR POLLUTION)
CONTROL AUTHORITY,)
Respondent.)

PCHB No. 79-135

PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

This matter, the appeal of a \$50 civil penalty for an open fire in violation of Section 4.01 of Regulation 1 of the Southwest Air Pollution Control Authority, came before the Pollution Control Hearings Board in Vancouver, Washington on November 30, 1979. Nancy E. Curington, Administrator presided.

Appellant was represented by its attorney, John R. Fox.
Respondent was represented by its attorney, James D. Ladley.

Having heard the testimony, having examined the exhibits, and having considered the contentions of the parties, the Board makes

EXHIBIT A

1 these

2 FINDINGS OF FACT

3 I

4 Pursuant to RCW 43.21B.260, respondent has filed with the Board
5 a certified copy of its regulations and amendments thereto, which
6 are noticed.

7 II

8 On July 19, 1979, respondent's inspector was traveling on
9 Interstate 5 near Ridgefield in Clark County, when he noticed a
10 smoking burn barrel at appellant's premises. He visited the site
11 and advised the owner that the fire was in violation of respondent's
12 regulations. He observed paper ashes within the barrel, but no
13 natural vegetation. The owner explained that he was burning yard
14 clean up and some papers. The inspector requested the fire be
15 extinguished; the owner did not do so, but allowed the fire to burn
16 out, which occurred in approximately one-half hour. Respondent's
17 inspector issued a field Notice of Violation for "open burning in
18 violation of Southwest Air Pollution Control Authority Regulation 1,
19 Section 4.01"; on July 24, 1979, respondent sent by certified mail a
20 Notice of Violation and Civil Penalty of \$50.

21 III

22 The owner of Ridgefield Upholstery resides on the premises.
23 After being informed by the Fire Department that he could dispose of
24 yard clippings in his burn barrels, the owner had instructed two
25 young boys to clean up his yard. Appellant was not aware that he
26 needed permission from any other authority to burn. Some newspapers

1 were used to start the fire to burn the yard refuse.

2 IV

3 Section 4.01 of respondent's Regulation I prohibits open fire's
4 within respondent's jurisdiction without a permit from respondent.

5 V

6 Any Conclusion of Law which should be deemed a Finding of Fact
7 is hereby adopted as such.

8 From these Findings, the Board comes to these

9 CONCLUSIONS OF LAW

10 I

11 On July 19, 1979 appellant violated Section 4.01 of respondent's
12 Regulation I by burning paper and natural vegetation in a burn
barrel without a permit from the respondent.

14 II

15 Although this incident is apparently the appellant's first
16 contact with respondent, we are not persuaded that appellant acted
17 in good faith upon the inspector's notification of the violation.
18 Although the inspector requested the fire be extinguished
19 immediately, appellant allowed the unlawful fire to continue burning
20 until it extinguished itself. Therefore, the \$50 civil penalty
21 should be affirmed.

22 III

23 Any Finding of Fact which should be deemed a Conclusion of Law
24 is hereby adopted as such.

25 From these Conclusions the Board enters the following

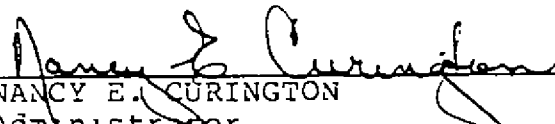
26 PROPOSED FINDINGS OF FACT,
27 CONCLUSIONS OF LAW AND ORDER 3

ORDER

The \$50 civil penalty is affirmed.

DATED this 14th day of December, 1979.

POLLUTION CONTROL HEARINGS BOARD


NANCY E. CURINGTON
Administrator

PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER 4